STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JON'ZANA JOHNESA THOMAS, and JOVELL WILLIAMS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOHN ANDREW THOMAS,

Respondent-Appellant,

and

NATASHA THOMAS,

Respondent.

UNPUBLISHED
August 16, 2005

No. 260874
Wayne Circuit Court
Family Division
LC No. 03-421626

Before: Zahra, P.J., and Cavanagh and Owens, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the order terminating his parental rights pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (h). We affirm.

The trial court did not clearly err in finding that at least one ground for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). At the time of adjudication, respondent-appellant was barred by a condition of his parole from having contact with any children. Further, he had not contributed to his child's support for some time, if ever. At the time of termination, respondent-appellant was incarcerated and was unable to support the child, despite a stated desire to do so. Between adjudication and termination, respondent-appellant had not come forward to offer a placement or plan for the child, provide financial support for her, work on a treatment plan, or even contact the court or case worker. Although respondent-appellant testified that he was taking a business trade course and a life skills course while in prison, he would have to use these skills once he was released from prison to find legal employment and establish a suitable home in order to be reunited with his daughter. This evidence was sufficient to establish both MCL 712A.19b(3)(c)(i) and (g). Although the trial court clearly erred in relying on MCL 712A.19b(3)(h) as a ground for terminating

respondent-appellant's parental rights,[1] because his earliest possible release was within two years of the filing of the termination petition, this error does not warrant reversal because the other statutory grounds were established by clear and convincing evidence. *In re Powers*, 244 Mich App 111, 118; 624 NW2d 472 (2000).

Finally, the trial court did not clearly err in its best interests determination. MCL 712A.19b(5); *Trejo, supra* at 353. While respondent-appellant may have once had a good relationship with his daughter as he claimed, he had not had any relationship with his daughter, and had not contributed to her support, for some time before being incarcerated or during his incarceration. Respondent-appellant expressed a desire to have his daughter returned to his care, but a parent needs to establish more than a "desire" to care for his child. Therefore, the trial court did not clearly err in finding that the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the child's best interests.

Affirmed.

/s/ Brian K. Zahra
/s/ Mark J. Cavanagh
/s/ Donald S. Owens

[1] The two-year period is only in the future. Past incarceration is not counted. *In re Perry¸193 Mich App 648,650;484 NW2d 768 (1992).*